



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): Metcalfe

Application No.: 10/821,041

Art Unit: 3643

Filed: 4/8/2004

Examiner: Ark, Darren W.

Title: Method and Apparatus for Controlling Pests

Attorney Docket No.: 50180

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION MAILED 09/21/04

Dear Sir:

In response to the Office Action of September 21, 2004, please amend the claims as per the attached claim sheets.

REMARKS

Applicant appreciates that there are issues with inventorship. As indicated in the attached materials from counsel in the UK, attachment A, the issue of inventorship is being litigated in the UK. Since the invention was made in Great Britain and first filed in the GB Receiving Office of the PCT, it is hoped that the litigation of inventorship in GB would resolve the issue for all PCT countries, obviating the need to re-litigate the same issues in each country.

Given the resolution of the inventorship issue, any issue of double patenting can be addressed and resolved.

In this regard please note that counsel for Mr. Metcalfe are seeking an Order, based upon the Approved Judgment of the Patents Court (App.Judg.,) that Mr. Metcalfe and Dr. Lax are to be entitled to be named as inventors. See "Approved Judgment" Case No. CH2004/APP/0255, citation number [2004] EWHC 2107 [pat.], **paragraph 31**. Mr. Metcalfe's attorneys are seeking a specific order that Metcalfe and Lax, in fact, be added to the US application corresponding to the PCT application, which prosecution has been kept confidential from Mr. Metcalfe to this date. We anticipate receiving Orders from the Court by the Summer.

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